HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 1965 of 2007

DATED: 5-2-2007

Between:

Makerla Gopala Krishna Murthy and others

...Petitioners

and

The State of Andhra Pradesh, rep. by its Secretary, Department of Land Acquisition, Secretariat, Hyderabad and others

...Respondents.

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 1965 of 2007

ORAL ORDER:

The petitioners lands are sought to be acquired by the issuance of a notification, dated 20-11-2006, under Section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act'). Urgency clause has been invoked under Section 17 (4) of the Act and enquiry under Section 5-A of the Act has been dispensed with mechanically without due application of mind, is the complaint.

The impugned notification states that the acquisition is for the purpose of construction of a summer storage tank for Manginapadu and other surrounding villages for the purpose of drinking water. This requirement is not of such an emergent nature as would justify invocation of the urgency clause and dispensing with the enquiry under Section 5-A of the Act. The enquiry under Section 5-A of the Act is a salutary statutory provision intended for affording a reasonable opportunity to the owners of the lands to object to the acquisition on any relevant grounds as they wish to submit.

In the aforesaid circumstances, the decision in the impugned notification to invoke the urgency clause and dispensing with the enquiry under Section 5-A of the Act is declared irrational and unsustainable. The respondents are directed to issue notice to the petitioners for submission of objections, if any, to the

proposal to acquire the lands. On the petitioners submitting their objections within the time stipulated in the notice, the same shall be considered and an appropriate decision taken duly communicating the decision to the petitioners simultaneously with the recommendations made after the enquiry under Section 5-A of the Act by the acquiring authority. The petitioners shall not be dispossessed pending communication of the decision to them consequent on the enquiry under Section 5-A of the Act.

The writ petition is disposed of as above at the stage of admission, after hearing the learned counsel for the petitioners and the learned Government pleader for Land Acquisition. There shall, however, be no order as to costs.

GODA RAGHURAM, J

05-2-2007
GRR